

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Pursuant to the authority of Iowa Code section 256.7(21), the State Board of Education hereby proposes to amend Chapter 65, “Innovative Programs for At-Risk Early Elementary Students,” Iowa Administrative Code.

The proposed amendments will simplify the grant application and award process. It will get grant funds to districts on a timeline that will allow for timely hiring and budgeting. It will allow recipient districts to spend more time on instruction and less on preparing grant applications. New chapter 65 will allow greater flexibility to local districts in determining how best to provide grant-funded services at school buildings with large numbers of at-risk students. New chapter 65 is, in the State Board’s estimation, closer to legislative intent.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendment until March 7, 2017, at 4:30 p.m. Comments on the proposed amendment should be directed to Phil Wise, Administrative Rules Co-Coordinator, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-4835; e-mail phil.wise@iowa.gov; or fax (515)242-5988.

A public hearing will be held on March 7, 2017, from 1:00 to 2:00 p.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs by

calling (515)281-5295.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code sections 256.7(21) and 279.51(1)“c”.

The following amendment is proposed.

ITEM 1. Rescind 281—Chapter 65 and adopt the following **new** chapter in lieu thereof:

CHAPTER 65

PROGRAMS FOR AT-RISK EARLY ELEMENTARY STUDENTS

281—65.1(279) Purpose. These rules set forth procedures and conditions under which state funds shall be granted to public school districts that have elementary schools that demonstrate the greatest need for programs for at-risk students in early elementary grades.

281—65.2(279) Definitions.

“Applicant” means a public school that applies for the early elementary at-risk funds.

“At-risk elementary school” means a public school attendance center serving early elementary grades that has a defined percentage of at-risk students as reported in the statewide Basic Educational Data Survey (BEDS).

“Awardee” means the applicant designated to receive early elementary school awards.

“Department” means the department of education.

“Early elementary grades” means kindergarten through grade three.

281—65.3(279) Eligibility identification procedures. In a year in which funds are made available by the Iowa legislature, the department shall grant awards to applicants for buildings serving early elementary grades with a high percentage of at-risk students.

281—65.4(279) Award allocation procedure. Awards will be distributed based on the percentage of at-risk students in buildings serving early elementary grades through a formula determined by the department.

65.4(1) As specified in Iowa code section 279.51(1)“c”, \$75,000 will be distributed to districts with 10,000

students or less and at least a 5% non-English speaking student population. These funds must be directed by the awardee to the building(s) serving the highest percentage of at-risk early elementary students.

65.4(2) Remaining funds will be allocated to school districts not meeting the above state threshold for buildings serving the highest percentage of at-risk early elementary students. The Department shall have final discretion regarding awarding of funds.

281—65.5(279) Award acceptance process. The department shall notify eligible awardees of the opportunity to be granted an award for a three-year cycle. An applicant shall make formal acceptance using forms issued and procedures established by the department. Districts shall verify an official with vested authority has approved the application.

281—65.6(279) Awardee responsibilities. Each year, the awardee shall complete reports, on forms provided by the department, including the following:

1. An initial report including a proposed budget and expected outcomes.
2. A mid-year report including expenditures through the end of the calendar year.
3. An end-of-the-year report including total expenditures and a statement of impact on expected outcomes.

281—65.7(279) Allowable expenditures. School districts receiving awards “shall, at a minimum, provide activities and materials designed to encourage children’s self-esteem, provide role modeling and mentoring techniques in social competence and social skills, and discourage inappropriate drug use.” Other allowable and unallowable expenditures are described in Iowa administrative code rule 281—98.21(257), subrules 281—98.21(2) and 281—98.21(3), respectively.

281—65.8(279) Evaluation. The awardee shall cooperate with the department and provide requested information to determine how well the outcomes are being met. Statewide Leadership Teams will review final reports and provide useful feedback to buildings. This feedback will include information about innovative components to building programs. Buildings demonstrating innovation will be given preference the following grant cycle.

281—65.9(279) Contract revisions. The awardee shall obtain the approval of the department for any revisions

in the proposed budget, in excess of 10 percent of a line item, provided the revisions do not increase the total amount of the award.

281—65.10(279) Termination for convenience. The award may be terminated, in whole or in part, upon agreement of both parties. The parties shall agree upon the termination conditions, including the effective date, and in the case of partial termination, the portion to be terminated. The awardee shall not incur new obligations for the terminated portion after the effective date of termination and shall cancel as many outstanding obligations as possible.

281—65.11(279) Termination for cause. The award may be terminated, in whole or in part, at any time before the date of completion, whenever it is determined by the department that the awardee has failed to comply substantially with the conditions of the application. The awardee shall be notified in writing by the department of the reasons for the termination and the effective date. The awardee shall not incur new obligations for the terminated portion after the effective date of termination and shall cancel as many outstanding obligations as possible.

The department shall administer the early elementary school awards contingent upon their availability. If there is a lack of funds necessary to fulfill the fiscal responsibility of the awards, the awards shall be terminated or renegotiated. The department may terminate or renegotiate an award upon 30 days' notice when there is a reduction of funds by executive order.

281—65.12(279) Responsibility of awardee at termination. Within 45 days of the effective date of termination, the awardee shall supply the department with a financial statement detailing all program expenditures up to the effective date of the termination. The awardee shall be solely responsible for all expenditures after the effective date of termination.

281—65.13(279) Appeals from terminations. Any awardee aggrieved by a unilateral termination of a contract pursuant to rule 281—65.11(279) may appeal the decision to the director of the department in writing within 30 days of the decision to terminate.

65.13(1) Form of appeal. In the notice of appeal, the awardee shall give a short and plain statement of the

reason for the appeal.

65.13(2) *Appeal procedures.* The hearing procedures found at Iowa administrative Code chapter 281—6(290) shall be applicable to appeals of terminated awardees. The director shall issue a decision within a reasonable time, not to exceed 120 days from the date of hearing.

65.13(3) *Grounds for reversal.* Termination of an award under this chapter shall be reversed only if the awardee proves the process was conducted outside of statutory authority; violated state or federal law, policy, or rule; did not provide adequate public notice; was altered without adequate public notice; or involved conflict of interest by staff or committee members.

65.13(4) *Mandatory denial of appeal.* In lieu of a decision on the merits of an appeal, the director shall deny an appeal if the director finds any of the following:

1. The appeal is untimely;
2. The appellant lacks standing to appeal;
3. The appeal is not in the required form or is based upon frivolous grounds;
4. The appeal is moot because the issues raised in the notice of appeal or at the hearing have been settled by the parties; or
5. The termination of the award was beyond the control of the department because it was due to lack of available funds.

These rules are intended to implement Iowa Code section 279.51.